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W.P. No. 26507 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 26507 of 2022

Om Shakthi Narayani Siddhar Peedam Charitable Trust
Rep. by its Trustee, Mr. K.Soundarajan
Ariyur, Malaikodi
Vellore - 632 055.

... Petitioner

-VS-

1. The District Collector
O/o. The District Collector
Collectorate Building
Sathuvachary
Vellore - 632 009.
2. The Joint Director/ Member Secretary
O/o. The Joint Director /Member Secretary
Vellore Local Planning Authority
District Town and Country Planning
Ex-Service Office, II Floor
Vellore - 632 001.
3. The Commissioner
O/o. The Commissioner
Corporation of Vellore
Officer's Line
Vellore - 632 001.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First and Second Respondents, to grant DTCP approval for the Ground + 1 Floor + Mz-1



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Commercial Building raised in S.Nos. 40/3, 41/10A, 41/10D, 41/10C, 41/10F, and 41/28(Pt) considering the scrutiny report dated 23.05.2017 in SCR-23/05/2017:28242, submitted by the Petitioner Trust.

For Petitioner : Mr. R.Gopinath
For M/s. McGan Law Firm

For Respondents : Mrs. N.Senthil Selvi
Government Advocate (For R1)

Mr. V.Baranidharan (For R2)

Mr. P.S.Prabhu (For R3)

ORDER

Heard Mr. R.Gopinath, Learned Counsel for the Petitioner, Mrs. N.Senthil Selvi, Learned Counsel for the First Respondent, Mr. V.Baranidharan, Learned Counsel for the Second Respondent and Mr. P.S.Prabhu, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed for directing the First and Second Respondents, to grant DTCP approval for the Ground + 1 Floor + Mz-1 commercial building raised in S. Nos. 40/3, 41/10A, 41/10D, 41/10C, 41/10F,



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and 41/28(Pt) considering the scrutiny report dated 23.05.2017 in SCR-23/05/2017:28242 submitted by the Petitioner Trust.

3. In response to the aforesaid claim made by the Petitioner, the Second Respondent has filed Counter-Affidavit dated 09.11.2022 in which it has been stated as follows:-

"2. I most respectfully submit that the Petitioner herein has submitted an Application on 10.10.2017 for construction of commercial building in Survey No. 40/3, 41/10A, 41/10B, 41/10C, 41/10D, 41/10F of Murukey Village, Anaikattu Taluk, Vellore District. I submit that this Respondent upon scrutinizing the said Application found that the lands upon which the building was proposed to be constructed were agricultural lands and has therefore issued a Letter bearing Na.Ka. No. 1976/2017, Vema 3, dated 10.11.2017 to the Joint Director, Department of Agriculture, Vellore, for issuance of necessary reports. As against the said Letter, the said Joint Director, Department of Agriculture, Vellore, has issued an No objection Certificate vide Letter bearing No. Oo2/10905/2017, dated 15.12.2017 to this Respondent for the above said lands.



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3. *I further submit that this Respondent has also issued another Letter bearing Na.Ka.No. 1976/2017/Vema3, dated 14.11.2017 to the Petitioner herein calling upon them to produce the following information.*

- (a) Original Adangal for all survey number has to be produced.*
- (b) NOC from the highways department since the approached road is a State highway.*
- (c) Submission of building detailed plan through e-DCR.*
- (d) Topo Plan to be submitted*
- (e) To submit NOC from the concern department for the water body situated adjacent to the proposed land to be developed.*
- (f) Sworn Affidavit as well as information with regard to the EB line marked in the FMB sketch of Survey No. 41 has to be produced.*
- (g) The revenue records to substantiate the ownership of the applicant for land in Survey No. 28 which is situated in between the existing road and the land proposed to be developed.*



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4. *I most respectfully submitted the Petitioner herein has neither submitted any information nor produced any documents as sought in the above said Letter dated 14.11.2017. I further submit that the Petitioner herein has also not approached this Respondent herein for processing of its application till date. I submit that the application submitted by the Petitioner is pending due to the reasons for non-submission of the documents sought in Letter bearing Na.Ka.No. 1976/2017/Vema3, dated 14.11.2017. That being so, the averment that the Petitioner herein has appeared many time before this Respondent for inspection and granting of approval is totally denied as false.*

5. *I submit that the Petitioner has not taken any steps to process its applications. I submit that the Petitioner herein has wantonly failed to aver the above said facts while filing this Writ Petition. I submit that the other averment that the Petitioner has filed an application before the Third Respondent during the year 2013 for construction of commercial building in above mentioned land is totally denied as false. On bare*



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perusal of the Letter bearing No. Ka.MaNo. 2122/13/F1, dated 05.07.2013, issued by the Third Respondent to the Second Respondent would reveal that it pertain to land in T.S. No. 26/1A, 1B, 3, 3A, 3B, 3C, 4, 5, 6, 27, 40/1, 40/2, 35/1E, 3B, 3C, 3D of Ariyur Village, Vellore District. However, the application submitted by the Petitioner on 10.10.2017 for construction of commercial building pertains to Survey No. 40/3, 41/10A, 41/10B, 41/10C, 41/10D, 41/10F of Murukery Village, Anaikattu Taluk, Vellore District.

6. *I submit that, during the pendency of this Writ Petition, an Application dated 07.11.2022 has been made by one Mr. Raja under the RTI Act, informing this Respondent that he is the owner of land in Survey No. 41/10A and the same is encroached by the Petitioner herein. It is further submitted in the said RTI application the said Applicant Mr. Raja has sought for the copies of approved plan if any granted and has further informed that the sale deed in favour of the Petitioner has been set aside by the Court in respect of 95 cents in Survey No. 41/10A. I submit that it can therefore be inferred that the*



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Petitioner is not the owner of a portion of land for which approval has been sought.

7. *I submit that the Petitioner herein has not averred any facts with regard to the above said dispute over the lands in the present Writ Petition. I submit that the application submitted by the Petitioner is of the year 2017 and the same was submitted while the old portal was put to use for the public submission of applications. I submit that the said application was not processed due to non-submission of clarifications for the details sought against the application of the Petitioner. I submit that presently the Government of Tamil Nadu has introduced single window portal for processing of building construction application. It is therefore submitted that the Petitioner may be directed to submit an application with all necessary documents and drawings through the above said single window portal for the above said commercial building. Upon submission of the said application, this Respondent shall dispose off the said application within a period of 8 weeks as per the prevailing building rules and regulations."*



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In view of the action taken by the Respondents on the said application for planning permission made by the Petitioner, nothing remains for further consideration in the matter. If the Petitioner submits the requirements as sought by the Respondents, further action shall be taken by the Respondents in accordance with law.

4. In the result, the Writ Petition is disposed with the aforesaid observations. No costs.

10.11.2022

Maya

Index: Yes/No

Note: Issue order copy by 03.01.2023.

To

1. The District Collector
O/o. The District Collector
Collectorate Building
Sathuvachary
Vellore - 632 009.
2. The Joint Director/ Member Secretary
O/o. The Joint Director /Member Secretary
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P.D. AUDIKESAVALU, J.

Maya

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